

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

September 21, 2006

DIVISION ONE

B185992 The Foundation for (Certified for Publication)
Taxpayer & Consumer Rights
v.
Nextel Communications, Inc.

The judgment is reversed, and the case is remanded with instructions to grant the FTCR leave to amend. Appellant shall recover its costs on appeal.

Rothschild, J.

We concur: Mallano, Acting P.J.
 Vogel, (Miriam A.) J.

B181548 People (Not for Publication)
v.
Jaime Z. Torres, Cesar Villegas

The judgment is affirmed.

Mallano, J.

We concur: Rothschild, J.
 Jackson, J. (Assigned)

September 21, 2006 (Continued)

DIVISION ONE (Continued)

B186612 People (Not for Publication)
v.
Juan Jose Gutierrez

The judgment is affirmed.

Mallano, Acting P.J.

I concur: Rothschild, J.

I concur in the judgment only: Vogel (Miriam A.), J.

B192104 R. H. (Not for Publication)
v.
Superior Court, Los Angeles County
(Department of Children & Family Services, r.p.)

Real party in interest's motion to dismiss the petition is denied. R.H.'s request to take judicial notice is granted.

Let a peremptory writ of mandate issue directing the juvenile court to vacate that part of the June 1, 2006 order setting a Welfare and Institutions Code section 366.26 hearing.

Mallano, Acting P.J.

We concur: Rothschild, J.
Jackson, J. (Assigned)

[illegible]

The order of wardship is reversed.

Mallano, Acting P.J.

We concur: Rothschild, J.
 Jackson, J. (Assigned)

DIVISION TWO

Court convened at 9:00 a.m.

Present: Boren, P.J., Doi Todd, J., Ashmann-Gerst, J., Chavez, J. and Jim Guzman,
Deputy Clerk.

Each of the following:

B182764	People v. White
B187629	People v. Beattie
B185986	People v. Melendez
B187398	In re: Xiomara L.
B187725	In re Beyonce J.
B186103	People v. Reyes
B192512	Michelle R. v. SCLA & DCFS
B184691	Wells v. Ciotti
B178577	Wells v. Dailey

Argument waived, cause submitted.

B185754 People
 v.
 Gilliam

Merits:

Argued by Edward Haggerty for appellant and by Rama Maline, Deputy
Attorney General for respondent. Cause submitted.

B186701 Davis et al.
 v.
 Governing Board of The Bellflower Unified School District et al.

Merits:

Argued by Eric Bathen for appellants and by Michael Feinberg for
respondents. Cause submitted.

DIVISION TWO (Continued)

B183643 Yi
 v.
 Kim

Merits:

Argued by Allan Willion and Aidan Butler for appellant and by Steven Kim for respondent Ki Kim. Cause submitted.

B183161 People
 v.
 Cristobal

Merits:

Argued by Leonard Chaitin for appellant and by Ryan McCarroll, Deputy Attorney General for respondent. Cause submitted.

B184522 Dureza-Muneses
 v.
 Tenet Healthsystems Desert Inc.

Merits:

Argued by Douglas Winter for appellant and by Thomas Ryan for respondent. Cause submitted.

B181481 Farber et al.
 v.
 Klein et al.

Merits:

Argued by Karen Adelman for appellants and by Melvin Teitelbaum for respondents. Cause submitted.

DIVISION TWO (Continued)

B189208 California Insurance Guarantee Association

v.

Workers Compensation Appeals Board

University of California, Respondent

Merits:

Argued by Richard Guilford for petitioner and by Robert Feinglass for respondent. Cause submitted.

B177005 Medill et al.

v.

Westport Insurance Corporation

Merits:

Argued by Jeffrey Diamond and Brian Barry for appellants and by Jennifer Mathis for respondent. Cause submitted.

Court recessed.

Court reconvened at 1:00 p.m.

Present: Boren, P.J., Doi Todd, J., Ashmann-Gerst, J., Chavez, J. and Jim Guzman, Deputy Clerk.

B181869 People

v.

Tofoya and Cervantes

Merits:

Argued by Vanessa Place for appellant Tofoya, Maria Morrison for appellant Cervantes and by Ryan Smith, Deputy Attorney General for respondent. Cause submitted.

DIVISION TWO (Continued)

B187754 Galdjie
 v.
 Moses

Merits:
Argued by Jonathan Cole for appellant and by Charles Fonarow for
respondent. Cause submitted.

B183420 Ersoff
 v.
 Alschuler Grossman Stein & Kahan

Merits:
Argued by Phillip Levy for appellant and by Bruce Friedman for
respondents. Cause submitted.

B186313 Wollersheim
 v.
 Schlosser

Merits:
Argued by James Link for appellant and by Barry Van Sickle for
respondent. Cause submitted.

Court adjourned.

DIVISION THREE

B187390 Azar Khazin (Not for Publication)
 v.
 Slava Kono

The minute order of October 25, 2006, is reversed in its entirety. Khazin and Lisitsa are entitled to recover their costs on appeal.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION FOUR

B192101 Jennifer B. (Not for Publication)
 v.
 S.C.L.A
 Los Angeles County, D.C.S.

The petition for writ of mandate and request for a stay are denied. This decision shall become final as to this court immediately upon its filing. (Cal. Rules of Court, rule 24(b)(3).)

Manella, J.

We concur: Willhite, Acting P.J.
 Suzukawa, J.

B185758 People (Not for Publication)
 v.
 Cornelious

The judgment is affirmed.

Manella, J.

We concur: Willhite, Acting P.J.
 Suzukawa, J.

September 21, 2006 (Continued)

DIVISION FOUR (Continued)

B186747 People (Not for Publication)
v.
Pineda

The judgment is affirmed.

Manella, J.

We concur: Epstein, P.J.
Suzukawa, J.

B185194 Lemus (Not for Publication)
v.
California Community News

The judgment is affirmed. Respondent(s) to recover costs.

Willhite, Acting P.J.

We concur: Manella, J.
Suzukawa, J.

DIVISION FIVE

B187978 People (Not for Publication)
v.
Kiyana Foster

Upon issuance of the remittitur, the superior court clerk is directed to issue an amended abstract of judgment which correctly reflects the correct presentence credits and forward it to the Department of Corrections and Rehabilitation. The judgment is affirmed in all other respects.

Turner, P.J.

We concur: Armstrong, J.
 Mosk, J.

DIVISION FIVE (Continued)

B191724 Christopher J. (Not for Publication)
v.
Superior Court, Los Angeles County (D.C.F.S., r.p.i.)

The petition is denied as to Christopher and Jyiontaeh. The petition is granted as to Cherish. As to all children, this opinion is final forthwith. (Cal. Rules of Court, rule 24(b)(3).)

Turner, P.J.

We concur: Armstrong, J.
Kriegler, J.

B176959 Annamarie Reynaud (Not for Publication)
v.
Albert Rollins

The judgment is reversed. Appellant(s) to recover costs.

Kriegler, J.

We concur: Armstrong, Acting P.J.
Mosk, J.

B189550 Los Angeles County, D.C.S. (Not for Publication)
v.
Cheri C.
In re Amaris D.

The judgment is affirmed.

Mosk, J.

We concur: Turner, P.J.
Kriegler, J.

DIVISION SIX

B185372 People (Not for Publication)
v.
Altman

So much of the judgment as relates to sentencing is reversed. The trial court is instructed to exercise its discretion in deciding whether to sentence Altman to consecutive or concurrent terms and to state its reasons. In all other respects, the judgment is affirmed.

Perren, J.

We concur: Gilbert, P.J.
Yegan, J.

B182366 People (Not for Publication)
v.
Marr

The judgment is modified to strike the restitution fine imposed pursuant to section 1202.4, subdivision (b) and the parole revocation fine imposed pursuant to section 1202.45. As so modified, the judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.
 Coffee, J.

B187352 People (Certified for Publication)
v.
Jeffery

Filed order modifying opinion. (No change in the judgment).

DIVISION SEVEN

B190030 Weissman (Not for Publication)

v.

Superior Court, Los Angeles County
(MacDonald, r.p.i.)

Let a peremptory writ of mandate issue directing respondent superior court to vacate its order of March 3, 2006 denying petitioner's motion for summary judgment, and to issue an order granting the motion. Petitioner is entitled to recover her costs in this writ proceeding.

Johnson, J.

We concur: Perluss, P.J.
Zelon, J.

B189523 In re Marlon R. (Not for Publication)

Los Angeles County, D.C.S.

v.

Charles N.

The order terminating father's and mother's parental rights is reversed and the cause is remanded to the juvenile court with directions (1) to order DCFS to comply with the notice requirements of the ICWA in accordance with the views expressed in this opinion and (2) to conduct such further proceedings as are necessary to establish full compliance with the notice requirements of the ICWA. If, after receiving proper notice under the ICWA, a Creek tribe determines Marlon is an Indian child within the meaning of the ICWA, the juvenile court shall proceed in conformity with all provisions of the ICWA. If, on the other hand, no response is received from a Creek tribe indicating Marlon is an Indian child, or responses received indicate Marlon is not an Indian child within the meaning of the ICWA, the order terminating parental rights shall be reinstated.

Johnson, J.

We concur: Perluss, P.J.
Woods, J.

September 21, 2006 (Continued)

DIVISION SEVEN (Continued)

B175934 People (Not for Publication)
v.
Hollie

The judgment is affirmed.

Johnson, J.

We concur: Perluss, P.J.
Woods, J.

B190030 Weissman (Not for Publication)
v.
Superior Court, Los Angeles County
(MacDonald, r.p.i.)

Let a peremptory writ of mandate issue directing respondent superior court to vacate its order of March 3, 2006 denying petitioner's motion for summary judgment, and to issue an order granting the motion. Petitioner is entitled to recover her costs in this writ proceeding.

Johnson, J.

We concur: Perluss, P.J.
Zelon, J.

B186698 Warren (Certified for Publication)
v.
Merrill

The judgment is affirmed. Warren is awarded his costs on appeal.

Johnson, J.

We concur: Perluss, P.J.
Zelon, J.

DIVISION SEVEN (Continued)

B172642 Pagarigan
 v.
 Greater Valley Medical Group, Inc.

Filed order denying petition for rehearing.

DIVISION EIGHT

B182388 People v. Lee (Not for Publication)
B184430 In re Charles Joseph Lee, Jr.,

The judgment is affirmed. The petition for habeas corpus is denied.

Rubin, Acting P.J.

We concur: Boland, J.
 Flier, J.

B184998 Kime (Not for Publication)
 v.
 Leggitt-Kime

The judgment is affirmed. Joyce is awarded her costs of appeal.

Boland, J.

We concur: Rubin, Acting P.J.
 Flier, J.

B183765 People
 v.
 Becerra et al.,

Filed order modifying opinion. (No change in the judgment).